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7
8 IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
9

10 STEPHEN WILLIAMS,

11 Plaintiff,

12 vs.

13 SBC COMMUNICATIONS, INC.,
14 MARILYN MOOMAU, an individual, and
DOES 1-50, inclusive,
15

Defendants.
16

CASE NO. ~~C-05-01734-JF~~^{3147 MMC}

**STIPULATION OF DISMISSAL
OF FIFTH AND SIXTH CAUSES OF
ACTION AND ORDER THEREON**

1 IT IS HEREBY STIPULATED by and between the parties to this action, through their
2 designated counsel, that the following causes of action be and hereby are dismissed pursuant to
3 FRCP 41(a)(1),¹ without any prejudice to the right by Defendants SBC Communications, Inc., and
4 Marilyn Moomau to oppose any Motion for Remand by Plaintiff.

- 5 1. Plaintiff's Fifth Cause of Action for Interference/Restraint/Denial of Rights
6 under the Family Medical Leave Act ("FMLA") [29 USC §2615(a)(1); 29
7 CFR §825.220(a)(1)]; and
8 2. Plaintiff's Sixth Cause of Action for Discrimination, Discharge and
9 Retaliation in Violation of the FMLA [29 USC §2615(a)(2); 29 CFR
§825.220(a)(2), (3), (c)].

10 Dated: September 2, 2005

11 Law Offices of David S. Secrest,
12 A Professional Corporation


13 By: /s/ David S. Secrest
14 David S. Secrest
15 Attorney for Plaintiff
16 Stephen Williams

17 Dated: September 2, 2005

18 Robert Joseph Pia, Esq.
19 Law Offices of Robert Pia

20 By: /s/ Robert Joseph Pia
21 Attorneys for Defendants
22 SBC Communications, Inc., and Marilyn Moomau

23 IT IS SO ORDERED:

24 
25 ~~Hon. Edward M. Chen~~
26 ~~United States Magistrate Judge~~

27 Maxine M. Chesney
28 United States District Judge

29 Dated: September 21, 2005

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¹ Where plaintiff wants to drop certain claims but not to dismiss any defendant, the proper procedure is to amend the complaint. FRCP 15(a); *Ethridge v. Harbor House Restaurant* (9th Cir., 1988), 861 F2d 1389, 1392. "Alternatively, the parties may agree that certain claims will not be pursued or will be dismissed; or that the pleadings be amended to eliminate such claims. Such agreement is no doubt enforceable even without a formal motion to amend or dismiss." Schwarzer, Tashima, and Wagstaffe, California Practice Guide: Federal Civil Procedure Before Trial (Rutter Group, 2004); §§16:311-312.